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**TITLE 327 WATER POLLUTION CONTROL DIVISION****FIRST NOTICE OF COMMENT PERIOD**

LSA Document #14-59

**PUBLIC WATER SUPPLY RULES REVISIONS ACCORDING TO THE FEDERAL REVISED TOTAL COLIFORM RULE****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment of its intent to amend and add rules according to revisions adopted by the United States Environmental Protection Agency (U.S. EPA) to the Total Coliform Rule (TCR) under the Safe Drinking Water Act (SDWA). Minor revisions to various drinking water standards rules are also included in this rulemaking to maintain compliance with U.S. EPA's requirements. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [327 IAC 8-2-1](#); [327 IAC 8-2-7](#); [327 IAC 8-2-8](#); [327 IAC 8-2-8.1](#); [327 IAC 8-2-8.2](#); [327 IAC 8-2-8.3](#); [327 IAC 8-2-8.4](#); [327 IAC 8-2-8.7](#); [327 IAC 8-2-8.8](#); [327 IAC 8-2-13](#); [327 IAC 8-2-31](#); [327 IAC 8-2-37](#); [327 IAC 8-2-38](#); [327 IAC 8-2-39](#); [327 IAC 8-2-40](#); [327 IAC 8-2-44](#); [327 IAC 8-2.1-3](#); [327 IAC 8-2.1-6](#); [327 IAC 8-2.1-8](#); [327 IAC 8-2.1-9](#); [327 IAC 8-2.1-10](#); [327 IAC 8-2.1-16](#); [327 IAC 8-2.1-17](#); [327 IAC 8-2.3-4](#); [327 IAC 8-2.3-7](#); [327 IAC 8-2.4](#); [327 IAC 8-2.5-2](#); [327 IAC 8-2.5-6](#); [327 IAC 8-2.6-10](#); [327 IAC 8-2.6-11](#); [327 IAC 8-2.6-16](#); [327 IAC 8-2.6-18](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-18-3-2](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

The U.S. EPA is finalizing revisions to the 1989 Total Coliform Rule (TCR). The Revised Total Coliform Rule (RTCR) offers a meaningful opportunity for greater public health protection beyond the 1989 TCR. Under the RTCR, there is no longer a monthly maximum contaminant level (MCL) violation for multiple total coliform detections. Instead, the revisions require systems that have an indication of coliform contamination in the distribution system to assess the problem and take corrective action that may reduce cases of illnesses and deaths due to potential fecal contamination and waterborne pathogen exposure. This final rule also updates provisions in other rules that reference analytical methods and other requirements in the 1989 TCR (for example, Public Notification and Ground Water Rules). These revisions are in accordance with the 1996 SDWA Amendments that require U.S. EPA to review and revise, as appropriate, each national primary drinking water regulation no less often than every six years. These revisions also conform with the SDWA provision that requires any revision to "maintain, or provide for greater protection of the health of persons". As with the 1989 TCR, the RTCR applies to all public water supply systems.

Subsequent to publishing the final revisions to the TCR, U.S. EPA announced that technical corrections to the revisions will be published in January or February 2014. IDEM will incorporate those technical corrections in the draft rule prior to it being posted in the Indiana Register for Second Notice of Comment Period.

**Alternatives to Be Considered Within the Rulemaking**

Alternative 1. The option to do rulemaking to amend the drinking water rules in order to make the federally required changes according to the RTCR will keep Indiana's delegated drinking water program compliant with federal requirements.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? Yes.
- Is this alternative imposed by federal law or is there a comparable federal law? Yes.
- If it is a federal requirement, is it different from federal law? No.
- If it is different, describe the differences. Not applicable (NA).

Alternative 2. Do not amend existing rules. This alternative would render Indiana's drinking water standards and public water supply rules out of conformity with the SDWA. Indiana receives considerable federal funding for public water supply programs, both to benefit the state's conduct of public health and drinking water programs and to help communities and noncommunities provide safe water supply to their water users. Receipt of this funding requires, in part, that Indiana make the federally required revisions to rules according to the SDWA. Failure to include the federal requirements into state rules could jeopardize federal funding to the state's drinking water programs.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? No.
- If it is different, describe the differences. Not applicable (NA).

### **Applicable Federal Law**

The SDWA requires states with delegated programs to adopt drinking water rules and revisions as federally adopted under the SDWA. Indiana is delegated to conduct the drinking water and public water supply programs required under the SDWA.

### **Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. This rulemaking to adopt into state rule the federally required revisions to the TCR and minor revisions to drinking water standards rules creates no fiscal impact beyond the federal requirements that public water supply systems are required to meet even in the absence of state rules.

Potential Fiscal Impact of Alternative 2. If IDEM does not amend our state rules to include the federally required revisions to the TCR and the various minor revisions to drinking water standards, there would be the likely potential for loss of federal funding to the state's drinking water program and regulated entities would still be required to comply with the federal standards.

### **Small Business Assistance Information**

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

[www.in.gov/idem/ctap](http://www.in.gov/idem/ctap)

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin  
IDEM Small Business Regulatory Coordinator  
MC 60-04 IGCS W041  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8172 or (800) 988-7901  
[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Jacob Schpok  
Indiana Small Business Development Center  
One North Capitol, Suite 600  
Indianapolis, IN 46204  
(317) 232-8805  
[ombudsman@osbe.in.gov](mailto:ombudsman@osbe.in.gov)

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Steven N. Howell  
IDEM Small Business Assistance Program Ombudsman  
MC 50-01 IGCN 1301  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8587 or (800) 451-6027  
[snhowell@idem.in.gov](mailto:snhowell@idem.in.gov)

### **Public Participation and Work Group Information**

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel at (317) 232-8635 or (800) 451-6027 (in Indiana).

### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #14-59 TCR Revisions  
MaryAnn Stevens  
Rules Development Branch

Office of Legal Counsel  
Indiana Department of Environmental Management  
Indiana Government Center North  
100 North Senate Avenue  
Mail Code 65-41  
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 233-8903.

(3) By electronic mail to [mstevens@idem.in.gov](mailto:mstevens@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the email address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

#### COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than April 4, 2014. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel (317) 232-8635 or (800) 451-6027 (in Indiana) or Stacy Jones, Technical Environmental Specialist/Regulatory Development, Office of Water Quality, Drinking Water Branch, (317) 234-7454 or (800) 451-6027 (in Indiana).

Nancy King, Chief  
Rules Development Branch  
Office of Legal Counsel

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An [html](#) version of this document.